

Input by the Russian Federation

Thirteenth meeting of the Supervisory Body

Comments on Draft Article 6.4 sustainable development tool (Version 07.0; A6.4-SBM013-AA-A10)		
P.12-14 4. Definitions	11...(f) Gender equality: ⁹ a fundamental human-right principle aiming to ensure equal rights, responsibilities, and opportunities for all individuals, regardless of their gender <u>women and men</u>. It encompasses economic, social, political, and cultural dimensions and aims to eliminate disparities and biases based on <u>gender sex</u>, including is required to work for the This includes working towards the elimination of discrimination against women and girls; empowerment of women; and achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action, and peace and security;	“Gender equality” - this definition by UN-Women does not reflect international law and consensual approaches. The suggestion is to tie it to the provisions of relevant intergovernmentally agreed documents. “Principle” - Gender equality or equality of men and women is a principle and not a right per se. See article 1 of Convention on Elimination of all forms of discrimination against women: Article 2 States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; “Women and men” - As intergovernmentally agreed, gender equality is about equality of sexes, UN-Women that is used as a source reference has a mandate to deal with women’s issues, which is obvious even from the title of the Entity. See CEDAW Articles 1 and 5, Universal Declaration of Human Rights Article 2,

		many other human rights treaties, as well as Beijing Platform for Action, paragraphs 1, 14, 25, 27 and many others (PFA_E_Final_WEB.pdf (unwomen.org)) “Gender” - Not in any legally binding treaty that comprise international human rights law. “Humanitarian action” - Seems that the reference is made to the three pillars of the UN System, which are Peace and Security, Development and Human Rights. Humanitarian action is not part of these pillars but is covered by the mentioned pillars depending on the situation and context.
P.12-14 4. Definitions	11...(j) Indigenous Peoples:¹⁰ <u>peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions; inheritors and practitioners of unique cultures and ways of relating to people and the environment.</u>¹¹ They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live;	As correctly mentioned, there is no universal definition of Indigenous Peoples (IPs), yet there are certain procedures for admitting IPs to intergovernmental platforms and events. It is very inaccurate to draw a “definition” from a descriptive web page. In case there is a need to have such a paragraph, it is advisable to use the language from ILO Convention 169 on Indigenous and Tribal Peoples of 1989, article 1.1(b): (b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status,

		retain some or all of their own social, economic, cultural and political institutions.
P.12-14 4. Definitions	11...(k) Stakeholders: the public, including individuals, groups <u>of individuals</u> or communities, marginalized and disadvantaged groups the vulnerable/those who are vulnerable/those in vulnerable situations, including women, children, older persons, persons with disabilities, <u>national or ethnic religious and linguistic</u> minorities, and Indigenous Peoples or any other any person who may be affected or is likely to be affected, by the proposed Article 6.4 activity or PoA, or actions leading to the implementation of such an activity;	Singling out particular groups is not necessarily helpful. See Agenda-2030, i.e. paragraph 23, Targets 1.3, 1.4, 4.5, 11.2. These are the recognized minorities, see Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992.
P.21 5.2.1. Principle 1: Climate and energy	22. The proposed activity shall not increase <u>net</u> greenhouse gas (GHG) emissions over the GHG baseline scenarios	To accommodate GHG removals
P.21 5.2.1. Principle 1: Climate and energy	23. Activities shall also not affect the availability and reliability of the energy supply to other users. ²³ 23 Including, for example, curtailment and/or diversion of renewable energy supply away from users and into mitigation activities.	Footnote does not seem to reflect sufficiently wide variety of in-compliance to the principle and thus is excessive
P.21-22 5.2.2. Principle 2: Air, land and water	26. The proposed activity shall avoid releasing any pollutants to air, land and water, <u>in line with relevant national regulations of the host Party</u> . This includes hazardous and/or non-hazardous pollutants in the solid, liquid or gaseous phases. This principle covers all forms of environmental degradation, including, but not limited to thermal discharge to water, emissions of short-lived and long-lived climate pollutants , plastics, biomedical waste, nuisance odours, noise, vibration, radiation, electromagnetic energy, excessive water consumption and water discharge, and the creation of potential visual impacts, including light pollution.	Reference to national legislation seems appropriate as regulation might differ across countries. Short lived and long lived climate pollutants (SLCP & LLCP) include GHGs. Thus, total avoidance of their emissions could be interpreted as blocking any activities that do not result on net-zero emissions, which is not feasible for many activity types.
P.23 5.2.2. Principle 2: Air, land and water P2.3: Water	34. P2.3.2: ...This applies to the release of pollutants due to routine, non-routine and accidental circumstances with the potential for local, regional and transboundary impacts. ³⁰ 30 Transboundary pollutants include those covered under the Convention on Long-Range Transboundary Air Pollution.	Footnote does not seem relevant to the section
P.26 5.3.1. Principle 4: Human rights	48. <u>International Human-human</u> rights <u>law</u> constitute an overarching legally binding framework that informs and guides, <u>inter alia</u> , all	The notion of human rights itself does not impose any obligations on States or provide

	environmental and social safeguards. These rights, enshrined in national laws and/or international human rights treaties and declarations such as the Universal Declaration of Human Rights 37, establish fundamental standards to ensure dignity, equality, and justice for all. Consequently, the implementation of environmental and social safeguards within project activities must align with respect and uphold these human rights principles. Additionally, Human rights are central-important for sustainable development, poverty alleviation and ensuring fair distribution of development opportunities and benefits. Also, an activity is to be implemented with due respect for international human rights law by avoiding infringement on the human rights of others and addressing adverse human rights impacts that the activity may cause or to which it may contribute.	rights for individuals, while international human rights law does. As obvious from its title, the UDHR is not a treaty, it does not directly impose obligations on States Parties. Even though UDHR is considered by some as part of common law, it doesn't increase its status to a treaty level. Normally actions may be aligned with States respective obligations but not principles. One might argue that sustainable development is central to the realization of human rights. These two aspects are interlinked and it is not appropriate to put one above/at the center of other.
P.26 5.3.1. Principle 4: Human rights	49. Activity participants shall commit to the Universal Declaration of Human Rights respecting international human rights law by committing to meet their responsibility to respect human rights and carrying out human rights' due diligence process to identify, prevent and mitigate actual or potential adverse human rights impact caused by for the proposed A6.4 activity. Activity participants shall identify, prevent and mitigate actual or potential adverse human rights impact caused by the proposed activity during the human rights' due diligence.	The Declaration is not the only international document on human rights, there are legally binding instruments on human rights as well. Besides, the Declaration was adopted by States and doesn't have specific provisions that impose commitments on other stakeholders. See UN Guiding Principles on Business and Human rights, Principle A.15(a) Move this from the second sentence for a clearer understanding of "due diligence". This is also how it is referred to in UN Guiding Principles on Business and Human rights, Principle A.15(b).

P.26 5.3.1. Principle 4: (Human rights) criteria	50. P4.1: Activity participants shall ensure that the proposed A6.4 activity, during its implementation and operation, does not undermine the national or regional measures, <u>applied by the host Party</u> , for the realization of the human rights including those related to sustainable <u>the right to</u> development.	There are no human rights that are directly related to sustainable development. Suggest the term “right to development” as a more widely used language.
P.27 5.3.2. Principle 5: Labour	54. P5.1 The proposed activity participants shall ensure education programmes for local communities to access labour opportunities created by the proposed activity, <u>as applicable</u> .	Some activities may require highly qualified workforce that may be a natural barrier for the access of local communities without appropriate education to the relevant labour opportunities at a feasible timeframe
P. 28 5.3.3. Principle 6: Health and safety Principle 6 (Health and safety) criteria:	64. P6.3: The health and safety assessment and adopted management measures shall take into account differences in risk exposure and a gender-sensitive approach, as well as <u>the vulnerable, those who are vulnerable, those in vulnerable situations</u> marginalized and disadvantaged groups , including children, older persons, persons with disabilities, <u>, national or ethnic, religious and linguistic</u> minorities, and Indigenous Peoples.	See Agenda-2030, i.e. paragraph 23, Targets 1.3, 1.4, 4.5, 11.2. These are the recognized minorities, see Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992.
P. 28 5.3.4. Principle 7: Gender equality	65. The activity participants shall identify potential gender-based risks and impacts <u>that might undermine the principle of equality between women and men</u> and introducing effective measures to avoid, prevent or mitigate such risks and impacts, thereby eliminating the possibility of reinforcing pre-existing inequality <u>ies</u> and/or creating new ones.	These are unclear and undefined concepts. The suggestion is to state the intention in clearer terms. As this paragraph is about gender equality and does not cover other forms of inequalities, the word needs to be singular as an opposite to “gender equality”.
P. 28 Principle 7 (Gender equality) criteria:	66. P7.1: The activity participants shall avoid reinforcing gender-based discrimination <u>against women (and girls)</u> and shall not lead/contribute to adverse impacts on gender equality and/or the situation of women and girls in all their diversity .	This is not in line with Convention on the elimination of all forms of discrimination against women or SDG 5.1 End all forms of discrimination against all women and girls everywhere. If the idea was to highlight only one form of discrimination, that could be done by saying “discrimination on the basis of sex”, see Preamble of the mentioned Convention and its article 1.

		This is a term that is undefined and doesn't enjoy consensus among states.
P. 29 5.3.6. Principle 9: Indigenous Peoples	73. The activity participants shall respect and take into account the rights of Indigenous Peoples and individuals as contained in applicable legal obligations and commitments, which include pertinent national legislation, applicable international law, or in Indigenous legal systems. The activity participants shall recognize the Indigenous legal systems where these exist, which are those that are recognized under respective State's legislation and/or host party regulations. In the absence of host party regulations such laws, Indigenous legal systems based on the international law will be recognized if they are consistent with applicable national legislation. The activity participants should also create opportunities, as appropriate, for Indigenous Peoples to participate in and benefit from activity-related activities <u>on matters affecting them,</u> that may help them achieve their aspirations for economic and social development. Furthermore, the activity participants should take into account that Indigenous Peoples may play a role in sustainable development by often promoting, owning and managing activities and enterprises as partners.	There are no treaties/provisions of international law that would address the issue of Indigenous legal systems, thus this issue is to be address according to national legislation and regulations of a host Party. Participation of Indigenous peoples as per UN Declaration on the Rights of Indigenous Peoples must be on matters affecting their rights/them. Participation modalities/mechanisms need to be in line with national legislation.
P. 29 Principle 9 (Indigenous Peoples) criteria:	75. P9.2: The activity participants, with the full and effective participation of Indigenous Peoples involved, shall carry out an environmental and social analysis of the activities that may affect or involve Indigenous Peoples by completing the A6.4 Environmental and Social Safeguards Risk Assessment Form. Adequate resources for full and effective participation of Indigenous Peoples should be provided. The analysis shall include the potential impacts on their rights, lands, territories, gender-equal power relations <u>between women and men,</u> resources, culture, cultural heritage, and other potentially intangible impacts on Indigenous Peoples.	Beijing Platform for Action, i.e. paragraphs 118, 185 etc. PFA_E_Final_WEB.pdf (unwomen.org)
P. 30 Principle 9 (Indigenous Peoples) criteria:	77. P9.4: The activity participants shall recognize and respect the Indigenous Peoples' collective rights to own, use, and develop and control the lands, <u>territories and</u> resources and territories that they <u>possess by reason of traditional ownership or other traditional</u>	The language is close but not fully in line with Article 26.2 of UN Declaration on the Rights of Indigenous Peoples.

	<u>occupation or use, as well as those which they have otherwise acquired</u> have traditionally owned, occupied or otherwise used or acquired, including lands and territories for which they do not yet possess title.	
P. 30 Principle 9 (Indigenous Peoples) criteria:	79. P9.6: The activity participants shall ensure that Indigenous Peoples are provided with the equitable sharing of benefits to be derived from utilization and/or commercial development of natural resources on lands and territories or the use of their traditional knowledge and practices by the activity. This shall be done through good faith negotiation in a manner that is culturally appropriate and inclusive and that does not impede land rights or equal access to basic services, including health <u>health-care</u> services, clean water, energy, education, safe and decent working conditions, and housing.	More commonly used in documents of the World Health Assembly.
P.35-36		It would be helpful to preserve some short explanatory text indicating that the table by the IPCC can be used as a reference for interlinkages between mitigations activities and SDGs at the discretion of the project participants
P.37-40 Table. Example of defining activity-level sustainable development indicator		The list would be more illustrative if one example per each SDG is included
P.41 7. Validation	102... (b) Activity-level SD indicators defined in the A6.4 Sustainable Development Form are universally applicable to the activity type and significant by recurring/lasting during at least the whole crediting period of a proposed activity and impacting the primary stakeholders and/or local environment in a direct and measurable way and result in a primary benefit;	Activity participant is supposed to develop indicators relevant to its specific activity rather than any activity of the same type. This approach is supported by the reference to national sustainable development goals earlier in the text
P.40-43 7. Validation 8. Verification		It is worth noting that the DOE need to refrain from stating the direct obstruction of laws and regulations applied in the host Party by the activity participants unless it is proven through proper legal process

Comments on Draft procedure “A6.4 mechanism registry” (Version 02.0 A6.4-SBM013-AA-A13)		
P. 4 3.4. Fees		General remark regarding the fee payment methods – although not specified in this paper. This issue is of practical nature and needs to be addressed with clarity and with the allocation of a method or methods that are easily accessible to all Parties and participating entities while being secure and easy to administer. Namely, the method(s) need to accommodate the whole variety of national regulations, financial and trade limitations, as well as minimize the transitional burden for the Parties, especially developing country Parties.
P. 11 4.2. Functions	6...(c) Be hosted and maintained by the secretariat. <u>Always be accessible by all the Parties and activity participants.</u>	The maintenance and hosting services must allow access to the registry for all Parties and activity participants regardless of the chosen platform’s rules. Access has to be guaranteed from all IP addresses via secured protocol. The registry security technical arrangements must be modern, robust and at the same time simple. Steps should be taken to avoid additional infrastructure access issues. All the abovementioned issues need to be addressed in the text for the sake of practical applicability of the procedure.
P. 13 4.3. Account types	22. The mechanism registry administrator may suspend an account <u>of public or private entity</u> in the mechanism registry if it finds irregularity in the operation or use of the mechanism registry <u>after duly notifying the Party that had authorized the opening of that account.</u>	The wording of this paragraph suggests that any account can be suspended without notification and the term “irregularity” is not clearly defined. Should the account be suspended, it may raise issues with the ownership and costs of not being able to access the units deposited on the account.

Comments on Concept note “Terms and conditions for entities using the mechanism registry” (Version 01.0 A6.4-SBM013-AA-A14)		
Appendix. Key elements of the Terms for entities	1...(j) Confidentiality, IT security, and information management: This section will provide the privacy rights of authorized entities regarding their information and data stored within the registry, and how that information and data will be managed confidentially (including a reference to necessary sharing of information with Parties, dealt with under the proposed section on entity accounts above as well as security arrangements for the possible sharing of the information in the process of interaction with other systems), and relatedly, how the registry will maintain IT security. This will include how any breaches to security will be managed, and provide that authorized entities must act reasonably to maintain the registry’s security and the confidentiality of their access details (i.e. not share their login details and maintain anti-virus protection);	We suggest adding to this section a comprehensive information on security arrangements regarding interoperability and data exchange (with applicable standards).